

# UNITED STATES ATTORNEY'S OFFICE DISTRICT OF NEBRASKA 2004 ANNUAL REPORT



## **INTRODUCTION**

### **The District of Nebraska**

The District of Nebraska includes the entire State of Nebraska, which comprises 93 counties with an area of roughly 77,000 square miles and a population of over 1.7 million. From the large metropolitan areas of Omaha and Lincoln to smaller towns and expansive rural areas, Nebraska is geographically and culturally diverse. The State has a mixed economic base with substantial agricultural and agribusiness sectors, as well as significant manufacturing, technological and service sectors. More than 96 percent of Nebraska's land is farm and ranch land, and the State is a national leader in crop and livestock production. However, more than two-thirds of Nebraska's residents live in cities and towns with a population greater than 2,500. Several Fortune 500 companies, including Berkshire Hathaway, ConAgra, Union Pacific, Mutual of Omaha, and Peter Kiewit Sons, are headquartered in Nebraska, and many others have substantial operations in the State.

Three Indian reservations, for the Omaha, Winnebago, and Santee Sioux Tribes, are located in northeast Nebraska. Many federal institutions are also present in the State. The U.S. Strategic Command is headquartered at Offutt Air Force Base located just south of Omaha in Bellevue. There is a Veterans Affairs Hospital in Omaha, as well as outpatient clinics in Lincoln and Grand Island. Various other federal enclaves, including the Niobrara National Scenic River, the Missouri National Recreational River, and several National Monuments, Historic Sites, National Wildlife Refuges, and U.S. Army Corps of Engineers recreational sites are located throughout the State.

Numerous federal agencies maintain offices in Nebraska and work extensively with the U.S. Attorney's Office. These agencies include the

Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Marshal's Service, Secret Service, Internal Revenue Service, Postal Service, Department of Agriculture, Department of Defense, Department of Homeland Security, National Park Service, Department of Veterans Affairs, and others. Many of the cases and initiatives discussed in this report involved one or more of these federal agencies.

The citizens of Nebraska have long benefitted from enhanced law enforcement resulting from well-developed cooperative relationships between federal, state and local agencies throughout the State. Several joint task forces have been created to facilitate effective investigation and prosecution of criminal offenses, especially those involving drugs and violent crime. Some of the accomplishments of those groups are described in this report.

### The United States Attorney's Office

As part of the United States Department of Justice, United States Attorneys serve as the nation's principal litigators under the direction of the Attorney General. There are 93 United States Attorneys stationed throughout the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. United States Attorneys are appointed by and serve at the discretion of the President, with advice and consent of the United States Senate. Each United States Attorney is the chief federal law enforcement officer within his or her particular jurisdiction.

Almost two hundred years ago, Thomas Jefferson wrote that "The most sacred of the duties of government [is] to do equal and impartial justice to all its citizens." This sacred duty to fulfill the promise of justice for all remains the hallmark of the American experiment in democratic self-government. It is also the guiding ideal for the men and women of the Department of Justice in carrying out their mission:

"... to enforce the law and defend the interests of the United States according to the law; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; to administer and enforce the nation's immigration laws fairly and effectively; and to ensure fair and impartial administration of justice for all Americans."

As the chief federal law enforcement officer for Nebraska, United States Attorney Mike Heavican oversees all federal criminal prosecutions in the State, as well as most civil litigation involving the United States and its officers and agencies. Mr. Heavican was named interim United States Attorney in April 2001, and was confirmed as the presidentially appointed United States Attorney for Nebraska on September 21, 2001. He joined the U.S. Attorney's Office in March 1991 as an Assistant United States Attorney in the Omaha Criminal Division. During his tenure in the Office, he has also served as Acting First Assistant, and as Criminal Chief. Mr. Heavican worked in the Lancaster County Attorney's Office from 1975-1990, serving as Lancaster County Attorney from December 1981-1990. He began law school in 1972 and obtained his Juris Doctorate in December 1974 from the University of Nebraska College of Law. A native of Nebraska, he attended the University of Nebraska in Lincoln as an undergraduate and received a B.A. from that institution in 1969.

United States Attorney Heavican served as a member of the United States Attorney General's Advisory Committee from 2001 to 2003, and as Chair of the Advisory Committee's Controlled Substances Subcommittee from 2001 to September 2004. He continues to lead the Drug Demand Reduction Committee of the Controlled Substances Subcommittee, and is a member of the Native American Issues Subcommittee.

United States Attorney Heavican supervises a staff of 25 Assistant United State Attorneys (AUSAs) and more than 40 support personnel working in offices located in Omaha and Lincoln. Six attorneys from the County Attorney's Offices for Douglas, Lancaster, Hall, and Dawson Counties, as well as attorneys from the Nebraska Attorney General's Office and several federal agencies, have been designated as Special AUSAs.

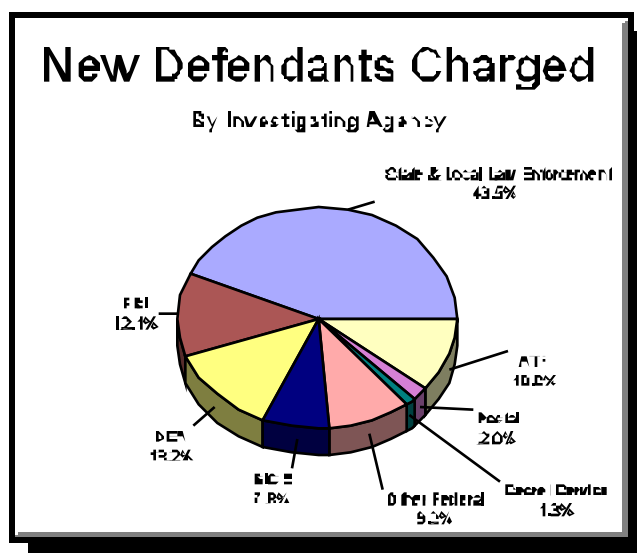
The Nebraska U.S. Attorney's Office is made up of several components. The Criminal Division, which includes the General Crimes Unit and the Drug Prosecution Unit, prosecutes violations of federal criminal law. Attorneys in the General Crimes Unit are supervised by Criminal Chief Jan Sharp. Drug Prosecution Unit attorneys are supervised by Organized Crime/Drug Enforcement Task Force

(OCDETF) Chief William Mickle. Attorneys in the Civil Division, supervised by First Assistant Sally Johnson, represent the United States and its agencies, officers, and employees in affirmative and defensive civil litigation in federal and state courts. The operations in the Lincoln branch office are supervised by Branch Chief Steven Russell. The Law Enforcement and Community Coordination (LECC) Unit, supervised by LECC Manager Joseph Jeanette, maintains partnerships between law enforcement agencies, and provides information and assistance related to federal grants for law enforcement. The Administrative Unit, supervised by Administrative Officer Denise Smith, supports the operations of all components of the Office.

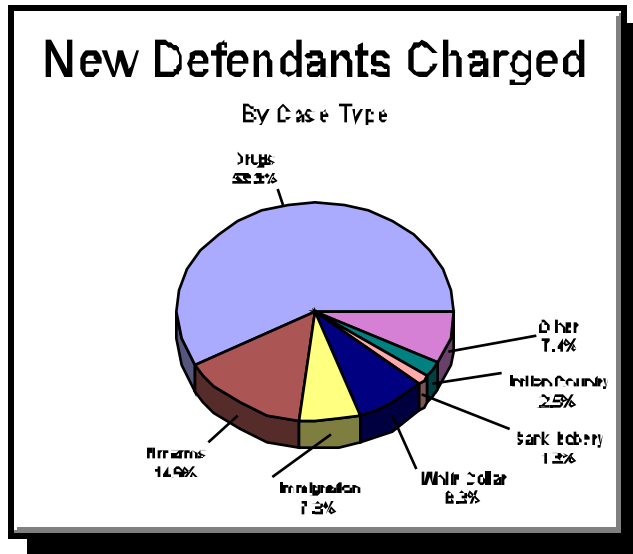
## **CRIMINAL DIVISION**

Working closely with federal, state, tribal and local law enforcement agencies, the attorneys in the U.S. Attorney's Office Criminal Division develop investigations of violations of federal criminal laws for presentation to a federal grand jury. If the grand jury returns an indictment, Criminal Division attorneys are then responsible for prosecuting the defendants named in the indictment in federal district court cases in Omaha, Lincoln, or North Platte.

The number of federal criminal indictments filed in the District of Nebraska again increased in 2004. A total of 772 indictments, charging 958 defendants, were filed during the year. The criminal charges filed in 2004 resulted from investigations conducted by a great number of law enforcement agencies. The chart below reflects the identity of some of those agencies.



The majority of the cases filed in 2004 involved charges related to illegal drugs, but a growing number charged violations of federal firearms laws. Because of a change in federal sentencing law, a relatively large number of the indictments filed in 2004 were superceding indictments.



In 2004 the Criminal Division continued to focus its efforts on areas identified as national priorities by the Department of Justice. Those areas include anti-terrorism, reduction of gun violence, drug enforcement, and white collar crime. In Nebraska, the U.S. Attorney's Office also placed special emphasis on law enforcement in Indian Country.

#### **A. ANTI-TERRORISM**

The first priority of the Department of Justice continues to be the fight against terrorism, both international and domestic. The U.S. Attorney's Office Criminal Division has committed significant resources to this effort. Working closely with the FBI and others, the U.S. Attorney's Office has created communications networks to share information concerning possible terrorist activity, identified potential targets of terrorist activities in Nebraska, and developed plans for responding to terrorism events in the State. The Office also has worked with entities involved in emergency preparedness and infrastructure

protection throughout Nebraska in order to improve and maintain the effectiveness of terrorism response plans.

The U.S. Attorney's Office has developed an active Anti-Terrorism Advisory Council (ATAC) which is made up of representatives of federal, state, and local law enforcement agencies, as well as other organizations involved in the fight against terrorism. Nebraska's ATAC meetings are conducted jointly with the two U.S. Attorney's Offices in Iowa, and provide an opportunity for the participating agencies and organizations to share information and training on all issues related to terrorism.

In order to increase the effectiveness of information sharing in the fight against terrorism, the U.S. Attorney's Office has placed videoconferencing equipment in State Patrol troop headquarters located throughout the State. The equipment is inter-connected, and also connected to the U.S. Attorney's Office videoconferencing equipment. The network allows law enforcement personnel in distant parts of the State to participate in ATAC meetings at the nearest troop headquarters rather than by traveling to Omaha. The network also is available to agencies for use in all types of criminal investigations, which greatly enhances the ability of law enforcement personnel throughout the State to share information quickly and efficiently.

In 2004, two members of the U.S. Attorney's Office staff took the fight against terrorism to a more personal level. AUSA Bob Cryne and Intelligence Research Specialist Jerry McNinch both volunteered to work six-month long details in Iraq for the United States Department of Justice. AUSA Cryne, who is scheduled to leave for Iraq in the summer of 2005, will advise and train Iraqi investigators, prosecutors, and judges involved in the prosecution of war crimes. Intelligence Research Specialist McNinch, who left for Iraq in April 2005, will serve as Operations Officer in coordinating the investigation and prosecution of war crimes.

B. GUN VIOLENCE REDUCTION



Reducing the threat and incidence of violent crime, especially from the illegal use of guns, continues to be a national priority of the Department of Justice. The primary vehicle for accomplishing this priority is Project Safe Neighborhoods, which is a nationwide commitment that encourages the strategic use of federal prosecution of gun offenses to deter violent crime.

Through Project Safe Neighborhoods, federal funding has been made available to support gun violence reduction strategies, to hire new federal and state prosecutors, to support investigators, to provide training, to distribute gun lock safety kits, to deter juvenile gun crime, and to promote community outreach efforts. Each United States Attorney establishes partnerships between federal, state and local law enforcement agencies and other groups in an intensive offensive against gun crime.

In Nebraska, Project Safe Neighborhoods is coordinated by a statewide Task Force made up of law enforcement officials from several state and local agencies, business leaders, researchers, and public relations experts. The Task Force has designed a proactive approach to fight gun violence throughout the State, with particular emphasis on areas experiencing the greatest incidence of gun violence. As part of the program, the U. S. Attorney's Office has worked closely with the Omaha Police Department, the Douglas County Attorney's Office, Weed and Seed organizations in North and South Omaha, and law enforcement agencies throughout the State to implement plans to reduce gun violence.



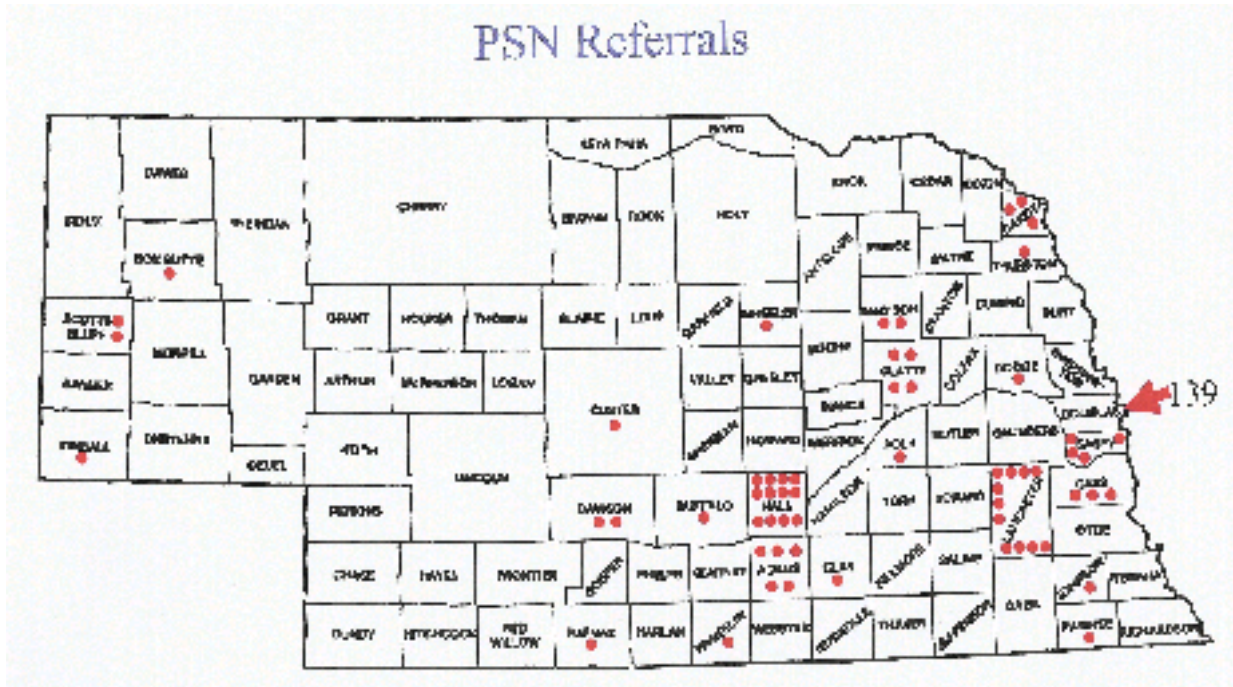
As part of the PSN initiative, eight billboards were placed in various locations in northeast and southeast Omaha.

Nebraska's Project Safe Neighborhoods program employs specific strategies developed to address the problem of gun violence as it exists in the State. As part of the Project, the U.S. Attorney's Office attempts to identify those individuals who present the most serious threats to their respective communities and to make those persons the subject of intense scrutiny and federal prosecution. Reports of gun-related incidents, maps of the location of incidents involving gun violence, and statistical information reflecting incidents of gun violence are reviewed to determine the most effective strategies for addressing the problem.

Project Safe Neighborhoods in Nebraska has focused significant efforts on areas of Omaha which have experienced especially severe problems with gun violence. Attorneys from the U. S. Attorney's Office Criminal Division attend regular meetings with the Douglas County Attorney's Office and the Omaha Police Department's gang unit to review incidents of gun violence and to determine which offenders should be prosecuted in federal court. Screening prosecutors have also been designated in other populous counties of the State to assist the U. S. Attorney's Office in identifying cases appropriate for federal prosecution. In 2004, cases from various locations throughout Nebraska were prosecuted in federal court.

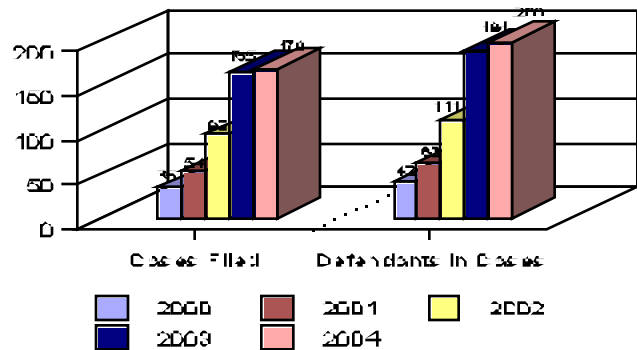


## PSN Referrals



The Project Safe Neighborhoods program has resulted in a significant increase in the number of gun charges prosecuted in federal court. The number of federal firearms charges filed in Nebraska increased by 374% between 2000, before the program was initiated, and 2003, when 191 defendants were charged as part of the initiative. In 2004, the number of defendants charged in federal court as part of Project Safe Neighborhoods increased to 200. Many were previously convicted felons who illegally possessed firearms. Some of the cases were "gun only" cases while others involved other charges.

## PSN Indictments



Measurement of the effectiveness of Project Safe Neighborhoods strategies is ongoing, but available evidence suggests that the Project is having a significant effect in diminishing the incidence of violent crime. There was a decrease of 12% in the number of gun violence incidents, and 21% in the number of shots fired reports, for the City of Omaha from 2002 to 2003. The effects were even more dramatic in Northeast Omaha, an area of focus for Project Safe Neighborhoods efforts, where there was a 24% reduction in gun violence incidents and a 43% decrease in shots fired reports from 2002 to 2003. The number of crimes involving gun violence continued to decrease from 2003 to 2004: shots fired calls in the City of Omaha decreased from 1690 to 1595, assaults with a gun decreased from 312 to 298, and homicides with guns decreased from 23 to 15.

Through community outreach activities designed to prevent gun violence from occurring in the first instance, as well as strategic investigation tactics and aggressive prosecution of offenders who engage in gun violence, Project Safe Neighborhoods has had a significant impact in increasing the safety and security of Nebraskans. Continued success can be expected as federal, state and local agencies and organizations work together to realize this important goal.

### Project Safe Neighborhoods Cases

#### United States v. Merwyn Levering

Merwyn Levering was sentenced to 262 months imprisonment after it was determined he was an Armed Career Criminal in possession of a firearm. Levering's prior felony convictions included: 1) First Degree Assault and Use of a Firearm; 2) Receiving Stolen Property; 3) Assault While Committing a Felony; 4) Escape; and 5) Criminal Possession of a Forged Instrument.

On February 14, 2004, Levering brought a firearm to his ex-girlfriend's house. During a domestic disturbance he fired several shots in the presence of his ex-girlfriend and her son. Five days later, Levering was a passenger in a car involved in a high speed chase with the Omaha Police Department. Levering threw a Colt

.45 firearm from the car. The gun was recovered and determined to be the same gun utilized days earlier at his ex-girlfriend's.

United States v. Larry Cage

Larry Cage was sentenced to 188 months imprisonment after he was determined to be an Armed Career Criminal in possession of a firearm. Cage has three violent felony convictions for burglary, assault with intent to injure, and assault with a dangerous weapon. Officers were called to Cage's residence to investigate reports of a shooting. Cage's girlfriend was found lying on the floor with a gunshot wound that had grazed her head. Cage admitted to shooting her during a domestic disturbance.

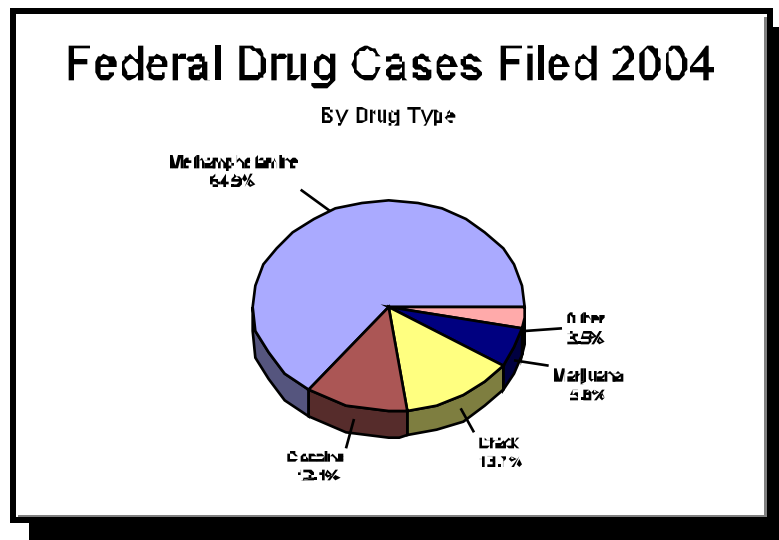
United States v. John Ways Jr.

John Ways, Jr., was sentenced to six years imprisonment after being convicted of Possessing a Destructive Device. Ways operated a notorious night club in Lincoln. During one of many searches of the establishment officers located a number of 37 mm launcher devices, exploding ammunition for the launchers, a .22 caliber handgun, and ammunition for the handgun. Ways was prohibited from possessing some of these items because they constitute destructive devices, and was prohibited from possessing other items due to his 1996 felony conviction for pandering and carrying a concealed weapon, second offense.

**C. DRUG ENFORCEMENT**

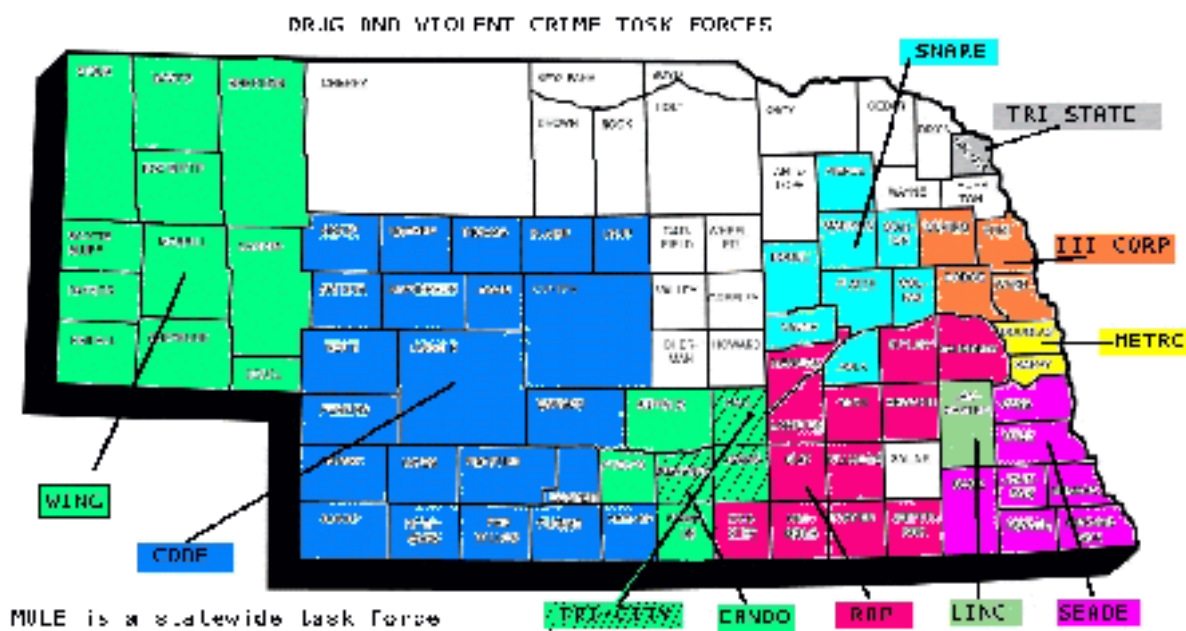
Drug enforcement is another national priority of the Department of Justice, and is an important local priority in Nebraska. As a result, the U.S. Attorney's Office continued to commit significant resources to the fight against drugs in 2004. Through cooperative agreements with the County Attorney's Offices in Douglas, Lancaster, Hall, and Dawson Counties, the U.S. Attorney's Office has been able to expand its prosecutorial resources through the appointment of Special Assistant United States Attorneys who work exclusively on drug cases.

In 2004, the U.S. Attorney's Office continued its efforts to identify, disrupt and dismantle drug trafficking organizations operating in Nebraska and elsewhere. The office filed 510 drug indictments charging 661 defendants in 2004. A large majority of the charges involved methamphetamine. The following chart reflects types of drug charges filed in the district in 2004.



The entire staff of the U.S. Attorney's Office's Drug Unit is actively involved in the implementation of the West-Central OCDETF regional strategy, which targets priority drug trafficking organizations within the West-Central Region. In fact, fiscal year 2004 was the second year in a row in which the Nebraska U.S. Attorney's Office led the nation in the number of OCDETF indictments filed. (See Appendix A.) Nebraska's OCDETF Coordinating Group continues to be an active and dynamic body, extensively involved in the identification of large scale narcotics cases in the State. The Drug Enforcement Nebraska Task Force (DENT) Board, which includes the chief administrative officer/agent of several local, state and federal law enforcement agencies, guides the identification of cases to be prosecuted federally in the District of Nebraska, as well as those with connections to other districts and regions.

Attorneys from the U.S. Attorney's Office Drug Unit also continued to work with eleven law enforcement task forces made up of federal, state, and local agencies investigating illegal drug activity in various regions of the State. The task forces provide the investigative assistance necessary to develop evidence for use in drug prosecutions, and serve as a valuable mechanism for sharing intelligence on illegal drug activities between separate jurisdictions throughout the State. In cooperation with the task forces, local prosecutors and attorneys from the U.S. Attorney's Office determine which cases are appropriate for federal prosecution, and which should be prosecuted in the State court system.



CANDO = Compact for Apprehension for Narcotics Dealers and Offenders  
 CODE = Central Nebraska Cooperative Operation for Drug Enforcement  
 LINC = Lincoln/Lancaster County Drug Task Force  
 METRO = Metro Omaha Drug Task Force  
 MULE = Mid & Upper Law Enforcement  
 RAP = Rural Apprehension Program  
 SEADE = Southeast Area Drug Enforcement  
 SNARE = Specialized Narcotics Abuse Reduction Effort  
 WING = Western Nebraska Intelligence Narcotics Group

In recognition of the U.S. Attorney's Office's emphasis on drug enforcement, United States Attorney Heavican and OCDETF Chief Mickle actively participate in national and regional working groups which are instrumental in formulating drug enforcement strategies. In 2003 and 2004, United States Attorney Heavican served as the National Chairman of the Attorney General's Advisory Committee Controlled Substances Subcommittee, which has direct input into the development, implementation and evaluation of the Department of Justice's national drug enforcement strategies. He continues to chair the Drug Demand Reduction Committee of the Controlled Substances Subcommittee, which is leading the Department of Justice effort to reduce drug demand through various sanctions. Mr. Heavican also serves on the Executive Committee of the Midwest High Intensity Drug Trafficking Area organization (HIDTA), an entity devoted to developing effective strategies to address the problem of illegal drug importation, manufacture, and distribution in the Midwest.

As part of its overall effort to fight illegal drug use, the U.S. Attorney's Office has for several years supported community outreach and education programs designed to discourage drug use. One successful effort being utilized in the District is Retail Watch Nebraska. The U.S. Attorney's Office, together with law enforcement agencies in various communities and the Midwest HIDTA, has formed a network of retailers to watch for and report individuals who purchase products used in the manufacture of methamphetamine (pseudoephedrine, lithium batteries, drain cleaners, muriatic acid, de-icer, starter fluid, camping fuel, etc.). Merchants provide information which is collated with other data for the statewide intelligence network. The information not only assists in the identification of individuals potentially involved in the manufacture of illegal controlled substances, but is also of value in developing prosecution strategies designed to reduce the demand for illegal drugs. In another effort to discourage drug abuse, members of the U.S. Attorney's Office staff regularly make presentations to schools and community groups on the dangers of illegal drugs.

## Drug Enforcement Cases

### Buffalo Soldier II

In April of 2004, an indictment charging nine individuals was returned after a Title III investigation in Western Nebraska and Eastern Colorado. The investigation included the execution of seven federal search warrants and involved cooperative efforts with Wyoming, Colorado and Arizona where another 25 individuals were arrested and indicted. The investigation also led to the seizure of significant quantities of methamphetamine and marijuana. All of those indicted have pled guilty to conspiracy to distribute and possess with the intent to distribute methamphetamine and marijuana in the District of Nebraska and elsewhere. The individuals indicted in Nebraska who have been sentenced have received sentences ranging from 63 months to 151 months imprisonment.

The investigation was a cooperative effort of the Drug Enforcement Administration, W.I.N.G. Drug Task Force, Bureau of Immigration and Customs Enforcement, Scottsbluff Police Department, Scotts Bluff County Sheriff's Department, Gering Police Department, Chadron Police Department, Sidney Police Department, Alliance Police Department, North Platte Police Department, Nebraska State Patrol, Larimer County Drug Task Force in Colorado, and Weld County Drug Task Force in Colorado.

### "Where's my money?" Investigation

This OCDEF investigation conducted primarily by the Drug Enforcement Administration has resulted in the seizure of approximately 90 pounds of methamphetamine and the indictment of Felipe Ramos-Florez, Jose Guiltron-Iglesias, Humberto Mendoza, Francisco Velasquez, and Isidro Cardinas-Ochoa. The investigation began with a controlled buy of methamphetamine in Iowa, involved a seizure of methamphetamine in Nevada, and has produced information on drug activity in Minnesota, Georgia, Utah and Arizona, as well as the activities in Nebraska giving rise to the indictment for

conspiracy and money laundering. All of the named defendants have plead guilty, and sentences imposed ranged from 84 months to 188 months imprisonment.

### Drug Paraphernalia Cases

In 2004 three indictments were returned charging six individuals with distributing and conspiring to distribute drug paraphernalia in Lincoln. Each defendant pled guilty to conspiracy and agreed to forfeiture of paraphernalia items seized during the investigation. Rajinder Kumar, owner of Exotic Gift Emporium Inc., was sentenced to one year probation and a \$10,000 fine. Kumar's employee, Chris Pinkelman, was sentenced to one year of probation. Brian Herting, owner of Pipe Dreams, received a sentence of one year probation and a \$10,000 fine. Herting's employee, William Vaughn, was sentenced to five months in prison and one year on supervised release which included five months of electronic monitoring. Frank Firoz, owner of Super Exotica, was sentenced to one month in prison followed by 12 months on supervised release which included six months home confinement and a \$12,000 fine. His son, and co-owner of Super Exotica, Christian Firoz, was sentenced to 24 months probation, six months of which is to be spent on home confinement. Forfeited as part of these convictions were more than 10,000 pipes and bongs, more than 1,200 scales and more than 800,000 other items of drug paraphernalia.

### Operation Lowrider

This OCDEF investigation by the Lincoln/Lancaster County Narcotics Unit, the Tri-City Drug Task Force, and Omaha area agencies has resulted in the indictment of hundreds of individuals on various federal charges including conspiracy, distribution, and manufacturing of methamphetamine, as well as charges related to the distribution of marijuana, heroin, cocaine, and crack cocaine, since it began in 2000. During 2004, the investigation led to the indictment of Robert Barrett, Bobby Beltran, Jeronimo Rosales, Pedro Valles-Minjarez, Genoveva Valles-Lopez, and Alfonso Lopez-Flores. After an undercover Lincoln Police Department



officer and a confidential informant purchased methamphetamine and cocaine from Beltran, and officers seized approximately one pound of cocaine which they believed was about to be delivered to Beltran by other persons, a search warrant was executed at a clothing and music store run by Beltran in Lincoln. During a search of the business, officers found cocaine, heroin, and some of the buy money which had been used in undercover purchases. Searches of two related locations on the same date led to the finding of additional methamphetamine and cocaine. Barrett, Beltran, Rosales, and Valles-Minjarez have been convicted. Valles-Lopez and Lopez-Flores are fugitives.

#### **D. LAW ENFORCEMENT IN INDIAN COUNTRY**

Improving law enforcement in Nebraska's Indian Country is an important priority of the U.S. Attorney's Office. In recognition of this, United States Attorney Heavican serves on the Attorney General's Advisory Committee Subcommittee on Native American Issues. Federal criminal jurisdiction applies on the Omaha and Winnebago Reservations in Eastern Nebraska. An application for retrocession of jurisdiction for criminal offenses committed on the Santee Sioux Reservation in Northeast Nebraska is being considered. As a result, the U.S. Attorney's Office has extensive dealings with all three Tribes.

In 2004, United States Attorney Heavican and other U.S. Attorney's Office managers continued their practice of traveling to the Omaha and Winnebago Reservations to meet with the Tribal Councils for the respective Tribes on a quarterly basis. At those meetings, personnel from the U.S. Attorney's Office endeavor to answer questions posed by the Tribal leadership and address issues of common interest. United States Attorney Heavican and several U.S. Attorney's Office staff members have also met with representatives of the Santee Sioux Nation, the Bureau of Indian Affairs, and state and local law enforcement agencies to develop plans for procedures to assure effective law enforcement on the Santee Sioux Reservation upon retrocession of criminal jurisdiction for offenses committed there.

The U.S. Attorney's Office has worked with the Tribes to determine what law enforcement issues are important to them and, where

appropriate, has changed its prosecutorial policies to address Tribal concerns. For example, the U.S. Attorney's Office has relaxed its prosecution guidelines for cases arising on the reservations in an effort to reduce drug abuse there through visible, aggressive criminal enforcement of drug laws. In a further effort to address concerns raised by the Omaha and Winnebago Tribes, the U.S. Attorney's Office continues to send at least one, and sometimes two, staff members to monthly Multi-Disciplinary Team (MDT) meetings which involve review of reported child abuse cases occurring on the Omaha and Winnebago Reservations. The cases are then tracked to make sure the complaints receive appropriate follow-up and that cases are reported to law enforcement and social service agencies in a timely manner.

LECC Manager Jeanette and his staff also continue to work to assist the Tribes in obtaining information on grants and other available resources which might be of benefit. The Omaha and Winnebago Reservations are located primarily in Thurston County. Through the efforts of the LECC Unit, much of Thurston County was declared a federal Weed and Seed site in 2003. That designation has allowed the release of federal grants for increased law enforcement, and for various other programs designed to improve conditions in the County.

### Indian Country Cases

The U.S. Attorney's Office filed approximately 21 cases related to crimes occurring on the Omaha and Winnebago Reservations in 2004. Because of the special nature of federal jurisdiction in Indian Country, the cases involved crimes usually punished under state law, such as assault, sexual assault, and burglary, as well as more typical federal offenses.

#### United States v. Latoya Grant

Latoya Grant was indicted, (and convicted in 2005), of Second Degree Murder. Ms. Grant, while on the Omaha Indian Reservation, assaulted her infant child causing a skull fracture. The child died from her injuries.

### United States v. Mary Moniz

Mary Moniz was indicted, (and convicted in 2005), of Assault with a Dangerous Weapon, Assault Causing Serious Bodily Harm, and Using a Weapon in the Commission of a Crime of Violence. Ms. Moniz, while on the Omaha Indian Reservation, shot another person in the leg during a domestic disturbance.

### United States v. Richard Thomas

Thomas was the former Social Services Director of the Santee Sioux Tribe. He was charged with embezzlement from an Indian Tribal organization. Thomas not only improperly used tribal credit cards for personal expenses, he also diverted checks made payable to the Santee Tribe and used the funds for personal purposes.

## **E. OTHER CRIMINAL DIVISION PRIORITIES**

Illegal immigration continues to be a persistent problem in Nebraska. The U.S. Attorney's Office has committed to aggressively prosecute felons who have illegally reentered the United States following deportation. In recognition of the relationship between immigration cases and homeland security, the U.S. Attorney's Office has also prosecuted cases involving widespread creation and dissemination of fraudulent immigration papers. More than sixty cases charging immigration violations were filed in 2004.

White collar fraud prosecutions are also a priority of the U.S. Attorney's Office. Personal accountability, as opposed to simply corporate accountability, has been required in all fraud cases in which it is possible to prove individual responsibility. Restitution for victims has been sought in all appropriate cases. Whenever significant assets can be located, the U.S. Attorney's Office has also endeavored to ensure that victims receive full restitution.

## General Criminal Cases

In addition to the cases described in the specific sections listed above, Criminal Division AUSAs successfully prosecuted several other significant cases in the last year.

## White Collar Crime

### United States v. Marla Bruder

Marla Bruder, former director of a federal surplus property program administered by the Nebraska State Department of Corrections, was sentenced to 12 months and 1 day imprisonment after being convicted of embezzling nearly \$416,000 from the Department of Corrections. The embezzlements generally occurred between October 1, 1996, and April 30, 2004. Bruder waived indictment and pled guilty in federal district court on November 30, 2004, to an information charging her with the felony offense of stealing from a state agency which received federal benefits.

### United States v. Katherine Rider

Katherine 'Kay' Rider was sentenced to three years in prison and ordered to make restitution totaling \$726,333.48 following her guilty plea to a charge of mail fraud. The indictment alleged that Rider was an independent insurance agent in Lincoln who took advantage of her position and her relationship with her clients, and through the use of the United States mail, stole, embezzled, and otherwise defrauded her clients of hundreds of thousands of dollars between at least the early 1980's and June of 2002. The victims consisted of seven individuals and five insurance companies. Rider, portraying herself as one of her clients, would contact the insurance company with whom the client had a policy and would transfer all or a portion of the cash value of the policy to herself. The total amount stolen in this fashion was ultimately determined to be \$856,977.

### United States v. LaVerne McDade and Daniel Grauer

Grauer was a claims manager for Union Pacific Railroad. McDade was a former employee who originally had a legitimate worker's compensation claim. They were convicted of mail fraud, and subsequently sentenced to prison, after it was determined that McDade had recovered from his work-related injury but that he and Grauer had agreed to continue payments to the McDade in exchange for a kickback. The investigation established a loss totaling in excess of \$694,000.

### United States v. David Wintroub

David Wintroub, a practicing attorney in Omaha, was indicted on multiple charges of conspiracy and money laundering. The indictment alleges Wintroub conspired to launder currency derived from a large scale marijuana distribution scheme. The funds were allegedly laundered through an internet sports betting service operated by the defendant. The case is awaiting trial.

## Violent Crime

### Aaron Shanle and Russell Frauendorfer

The defendants were sentenced to prison following their convictions for robbing two small town banks in Creston and Platte Center, Nebraska. The robberies were committed at gunpoint and, in one instance, involved ordering the tellers to the floor. Shanle received a sentence of 147 months, (later reduced through cooperation), and Frauendorfer received a sentence of 132 months imprisonment.

## Child Pornography

### United States v. David Mark

David T. Mark was sentenced to prison for 30 months following his conviction for Possession of Child Pornography. Mark has a prior conviction for Possession of Child Pornography. He was on

probation when additional child pornography was found on his computer during an unannounced visit by a United States Probation Officer. Mark admitted visiting various Web sites looking for pornography. A search of the computer revealed at least 15 images of child pornography.

#### United States v. Paul Tomasek

Paul Tomasek was sentenced to prison for 27 months for possessing child pornography. A search warrant was executed at Tomasek's residence and a computer and numerous floppy discs were seized. Numerous images of child pornography were found. Tomasek admitted to possessing child pornography and estimated his collection to be between 100 and 150 images. While on supervised release following his prison sentence, Tomasek will be required to register as a sex offender. He will be prohibited from being in contact with any children under the age of 18.

#### United States v. Joshua Tews

Joshua Tews was sentenced to a 46 month term of imprisonment following his conviction for receipt of child pornography and criminal forfeiture. The Information charged that Tews had received a videotape which contained visual depictions of child pornography. Tews ordered the tape from an undercover Postal Service special agent. A subsequent search revealed that Tews possessed child pornography on the computer that he used to order the videotape. The computer and related equipment were also forfeited to the United States.

#### United States v. Millard Vian

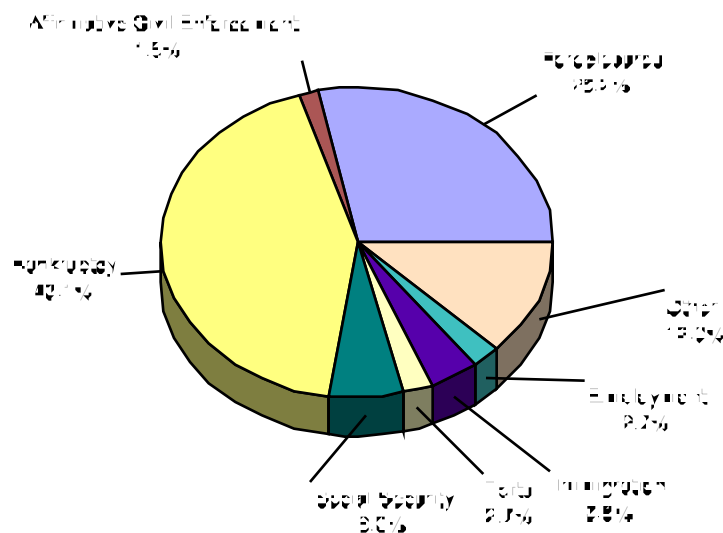
Millard G. Vian was sentenced to prison for a term of 46 months, to be followed by three years of supervised release, upon his conviction for possession of child pornography. In addition to the sentence of imprisonment, the court also ordered that Vian forfeit to the United States a computer and computer equipment used in the possession of child pornography. Vian's case resulted from a nationwide investigation into child pornography conducted by the

Federal Bureau of Investigation. During the course of the investigation, computers owned by Vian were determined to contain thousands of images of child pornography.

## **CIVIL DIVISION**

Attorneys in the Civil Division of the U.S. Attorney's Office represent the United States, as well as federal agencies, officers, and employees, in civil litigation in federal and state courts throughout Nebraska. Civil Division attorneys completed work on 442 cases in 2004. Included in that number were affirmative cases brought to enforce federal statutory and regulatory requirements, and to collect debts owed to the United States. Also included were defensive cases in which the validity of federal laws, or the acts of federal agencies and employees, were challenged. The chart below depicts the types of civil cases and matters completed during 2004.

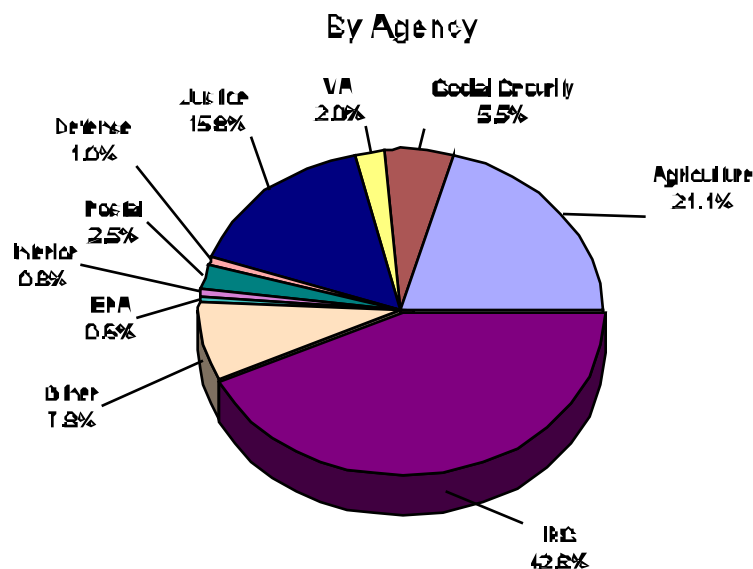
**Civil Cases and Matters Closed 2004**  
**By Cause of Action**



The number of cases and matters referred to the Civil Division in calendar year 2004 was lower than in 2003, but higher than in other recent years. The number of employment discrimination and tort cases increased in 2004 to the highest level in the last five years. Program litigation referrals, usually involving the defense of government agency action also remained high, and civil immigration litigation increased dramatically. The total civil workload has remained relatively constant over the past three years.

The agencies involved in the largest number of civil cases in the District continue to be the Internal Revenue Service and the United States Department of Agriculture. The United States Postal Service, the Environmental Protection Agency, the Defense Department, and the Department of Veterans Affairs also refer a significant number of cases each year.

### Civil Cases and Matters Closed 2004



Civil Division AUSAs have worked in recent years to enhance the Affirmative Civil Enforcement (ACE) program of the U.S. Attorney's Office. The ACE program involves various initiatives designed to collect civil monetary penalties for violations of federal law, to recover costs regulatory agencies incur as a result of violations of federal legal requirements, and to obtain compliance with the requirements of federal



law through civil litigation. In calendar year 2004, ACE recoveries totaled over \$2.4 million.

The U.S. Attorney's Office's ACE program includes an active Health Care Fraud Task Force made up of civil and criminal AUSAs, investigators from various state and federal agencies, and representatives of insurance providers and intermediaries. The task force approach provides effective communication regarding the investigation of health care fraud in the district, and allows the U.S. Attorney's Office to pursue cases in the manner most effective to deter fraudulent activity and recover losses.

Other areas of emphasis in the ACE program include environmental enforcement and enforcement of civil rights laws such as the Americans with Disabilities Act. In 2004 the U.S. Attorney's Office worked on several civil environmental cases brought to recover civil penalties from polluters, and to recover the Environmental Protection Agency's costs in responding to the cleanup of sites in Nebraska contaminated with hazardous waste.

As in most years, Civil Division AUSAs also conducted a significant amount of litigation in 2004 to collect debts owed to the United States. Suits to obtain judgments for unpaid balances on delinquent loans made by agencies such as the United States Department of Agriculture, the United States Department of Education, the Department of Veterans Affairs and the Small Business Administration comprise a significant portion of the Office's civil workload. The cases are litigated in federal district court, in bankruptcy court, and in state courts throughout Nebraska.

In the area of defensive litigation, the Civil Division of the U.S. Attorney's Office continued efforts to provide quality representation to the United States and its agencies and officers in federal and state court cases. Civil Division attorneys defended a large number of cases brought in federal court to set aside or modify the actions of federal agencies and officers. Division attorneys also handled several cases seeking damages for alleged negligence or other wrongful conduct by federal employees, as well as cases alleging discrimination in federal employment and federal programs. In many of these cases, judgment was entered in

favor of the United States. In others, as a result of the U.S. Attorney's Office efforts in defending the cases, the amount of damages paid by the United States was millions of dollars less than the amount sought by the plaintiffs.

### Civil Cases

Some of the more significant civil cases and matters the Civil Division worked on in 2004 are described below.

#### United States v. Santee Sioux Tribe of Nebraska

The U.S. Attorney's Office and the Santee Sioux Tribe of Nebraska negotiated a settlement in this long standing litigation concerning the Tribe's operation of a casino in northeast Nebraska. The United States filed suit in 1996 to enjoin the Tribe from operating illegal slot machine gaming in its casino. After several rounds of litigation in the federal district court and three separate appeals to the circuit court, the parties agreed that the Tribe's revised gaming could legally continue, and that the remaining issues in the case should be considered resolved.

#### Nebraska Beef v. Greening, et al.

In this action Nebraska Beef sought damages from individual federal meat inspectors working at the company's Omaha meat packing plant for alleged violations of the company's constitutional rights. After the federal district court denied the motion to dismiss filed by the U.S. Attorney's office, an appeal was filed with the United States Court of Appeals for the Eighth Circuit. The circuit court recently ruled in favor of the meat inspectors, finding that a cause of action for damages against them was legally barred.

#### State of Nebraska v. American Growers Insurance Company

The U.S. Attorney's Office is representing the U.S. Department of Agriculture in this action brought by the State seeking an Order of Liquidation as to the assets of the failed American Growers

Insurance Company. The Department's Risk Management Agency federally subsidized and reinsured policies sold by American Growers under the federal crop insurance program. Through this litigation, an effort will be made to recover some of the millions of dollars lost as a result of the failure of American Growers.

#### Steven Letares v. United States

Letares brought suit in federal district court alleging that he had been discriminated against in his employment with the former Immigration and Naturalization Service in Omaha. The court dismissed his suit prior to trial, finding that the undisputed facts showed that the United States was entitled to judgment as a matter of law.

#### Peetz v. Noonan

The Plaintiff brought an action in federal court in Lincoln against five federal employees of the Nebraska National Guard and others seeking more than \$1 million in damages for alleged violations of her civil rights when she was terminated from her State employment as a billeting clerk for the Guard. The U.S. Attorney's Office filed a motion on behalf of each of the five federal defendants challenging the jurisdiction of the court and arguing that the allegations of the complaint against the federal defendants were not sufficiently specific. Counsel for Ms. Peetz elected not to respond to the motion, and instead filed an amended complaint deleting each of the federal defendants from the amended complaint. Ms. Peetz' lawsuit continues against two State defendants.

#### Eggers v. United States

This medical malpractice action sought \$2.5 million in damages from the United States, based on the allegation that Plaintiff's decedent died as a result of negligent medical care furnished by the U.S. Department of Veterans Affairs at its hospital in Omaha. The Court granted the government's motion to dismiss, or in the

alternative, for summary judgment, arguing that the administrative tort claim was untimely and the statute of limitations barred the action.

#### Brahmsteadt v. United States

This civil suit seeking damages from the United States for injuries allegedly resulting from a slip and fall at the Post Office in Howells, Nebraska, was dismissed after a federal court jury in a separate criminal case convicted the Plaintiff of conspiring to defraud the United States by falsely claiming that her injuries occurred as alleged in the civil suit.

#### United States v. PharMerica

Pursuant to a settlement negotiated by the U.S. Attorney's Office in this civil health care fraud matter, PharMerica agreed to pay \$61,362 to resolve allegations that it billed Nebraska Medicaid for having filled after hour or emergency prescriptions which had actually been filled by outstate pharmacies.

#### United States v. Koch

The U.S. Attorney's Office assisted attorneys from the Department of Justice Civil Rights Division in this suit to recover damages and civil penalties from an Omaha landlord who violated the Fair Housing Act by sexually harassing female tenants and women seeking to rent from him. A federal jury in Lincoln awarded a total of \$66,152 in damages to several of the individual complainants, and the presiding judge awarded an additional civil penalty in the amount of \$40,000 to the United States.

#### United States v. Dravo, et al.

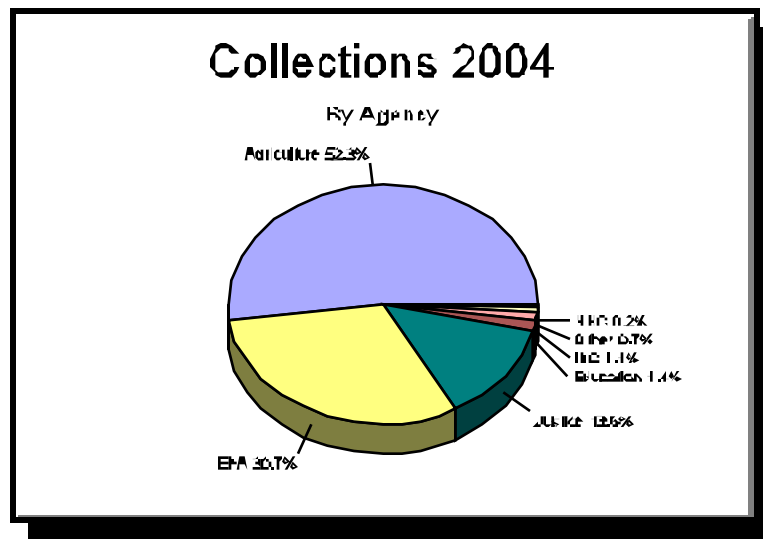
The U.S. Attorney's Office assisted the Department of Justice Environment and Natural Resources Division and the U.S. Environmental Protection Agency in implementing a settlement of claims for past response costs related to clean up of one of seven subsites of a superfund site in Hastings. Under the terms of a

Consent Decree entered in federal district court in Omaha, Dravo and others paid a total of \$2.045 million to reimburse the United States for costs expended to clean up groundwater contamination at the subsite.

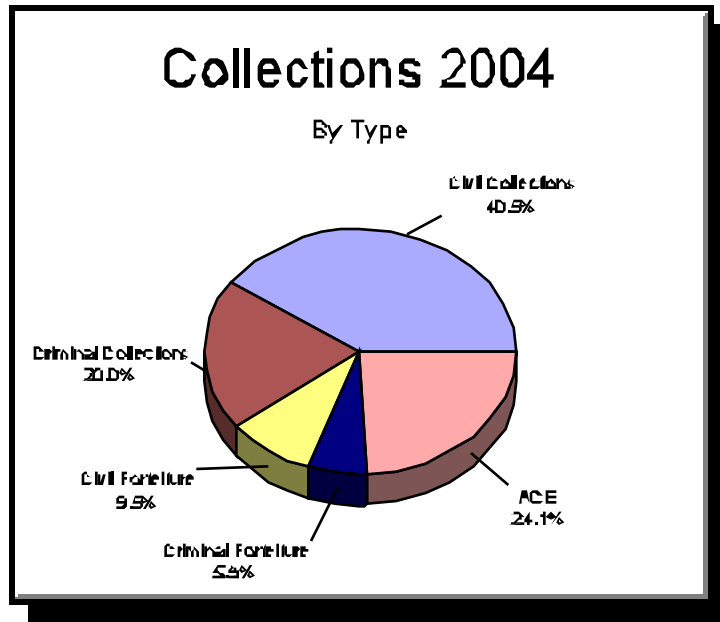
### Collection of Judgments

A major function of the U.S. Attorney's Civil Division is to collect debts owed to the United States as a result of fines and judgments for restitution imposed in criminal prosecutions, and judgments awarded to the United States and its agencies in civil litigation.

In 2004, the Civil Division's Financial Litigation Unit collected more than \$9 million in debts owed to the United States. In addition, the Financial Litigation Unit redesigned its systems to facilitate future debt collection efforts by through prioritization of debts involving high balances owed by debtors with assets. Total recoveries for individual agencies are reflected in the following chart.



Collections of criminal fines and restitution totaled over \$1,808,000 in 2004 – more than two and one-half times the amount of criminal fines and restitution collected in 2003. Forfeiture cases, both civil and criminal, resulted in forfeiture of cash and property valued at nearly \$1.4 million. Civil and ACE cases accounted for an additional \$5.8 million in collections.



A large percentage of the money collected by the U.S. Attorney's Office is forwarded to federal agencies for repayment of loans and other federal program obligations. Some of the recoveries, such as those obtained for the Environmental Protection Agency, are used to reimburse agencies for costs expended in implementing and enforcing federal programs. Criminal restitution collected is delivered to crime victims, and criminal fine and assessment recoveries are used to fund federal programs for the benefit of the victims of crimes. Much of the money and property obtained through asset forfeiture litigation is redistributed to federal, state, and local law enforcement agencies for use in criminal investigatory work.

### **LAW ENFORCEMENT AND COMMUNITY COORDINATION**

To make the best use of scarce resources, the U.S. Attorney's Office promotes coordination and cooperation between Federal, state and local law enforcement and community-based groups to work together to address challenges that face Nebraska. The mission of the U.S. Attorney's Office Law Enforcement Community Coordination (LECC) Unit is to assist law enforcement and criminal justice agencies throughout Nebraska, and to facilitate community-based efforts on issues related to criminal justice.

The LECC Unit of the U.S. Attorney's Office has worked to develop strong collaborative partnerships with federal, state, tribal and local law enforcement agencies, as well as other public and private entities throughout the State, in order to support the overall mission of the U.S. Attorney's Office. Some of those partnerships are designed to facilitate the investigation and prosecution of criminal offenses. Others are designed to prevent crime, and to provide a safer community for all Nebraskans. The LECC staff of the U.S. Attorney's Office works closely with the Nebraska Crime Commission in the planning and implementation of activities such as grant administration, data sharing, research, law enforcement training, and other specific projects.

In 2004, The U.S. Attorney's Office's LECC Unit continued to work closely with the Nebraska Sheriff's Association, the Police Officers Association of Nebraska, the Police Chiefs Association of Nebraska and the Nebraska County Attorneys Association to develop and present training on subjects related to law enforcement. The annual three day criminal justice conference hosted by the U.S. Attorney's Office and cosponsored by the Nebraska County Attorneys Association was held in May 2004. Training on a number of topics relevant to the needs of criminal justice officials was presented at the conference. Awards recognizing accomplishments in law enforcement were also presented. Award recipients in 2004 included:

**Deb Fenton, Federal Bureau of Investigation.** Ms. Fenton was recognized for her work in Forensic Computer Analysis, including her efforts in providing examination on over 400 cases including white collar crime, bombings, terrorism and child pornography.

**Lieutenant Adam Kyle, Omaha Police Department, Special Agent James Slosson, Bureau of Alcohol, Tobacco, and Firearms, Special Agent Matt Larson, Federal Bureau of Investigation, and Robert Francis Cryne, U.S. Attorney's Office.** These individuals were recognized for their work in the *Operation Looking Glass* case, which resulted in more than 50 federal indictments that effectively dismantled a drug organization responsible for the import of nearly 2,000 pounds of methamphetamine and the export of nearly \$12 million in bulk cash shipments.



**Sergeant Jeff Gade, Lincoln Police Department.** Sergeant Gade was recognized for his work directing the Family Crimes Unit, which investigates serious crimes against children, missing juveniles and domestic violence, and coordinating the efforts of numerous agencies and advocacy groups to address family violence.

Jeff Gade, center, was recognized for his work fighting family violence. Also pictured, left to right, are Assistant Chief John Becker and Captain Gary Engel of the Lincoln Police Department, U.S. Attorney Mike Heavican, and Assistant Chief Jim Peschong, also of Lincoln Police Department.



**Max Kelch, formerly Otoe County Attorney.** Judge Kelch received the Prosecutor of the Year award for his work in the Otoe County Attorney's Office beginning in 1982, when he joined the office as a Deputy County Attorney. He was elected County Attorney in 1986. He prosecuted over 3300 traffic tickets, 1000 misdemeanors, 100 felonies and tried nearly 100 felony and misdemeanor jury trials.

Max Kelch, left, receives the Prosecutor of the Year Award from U.S. Attorney Mike Heavican

**Nancy Martinez, formerly of the Nebraska HIDTA.** Nancy Martinez was recognized for her work in the Nebraska HIDTA program, which had a significant impact on the law enforcement community of Nebraska.



**Nancy Vandenberg, Nebraska State Patrol.** Ms. Vandenberg was honored for her work in intelligence information processing.

**Captain Rodger Williams, Hall County Sheriff's Office.** Captain Williams was honored for his efforts in the development of a special program designed to address the problem of underage drinking.

**Project Safe Neighborhoods.** The individuals and agencies involved in developing Project Safe Neighborhoods were recognized for the successful efforts of the initiative.



John Spencer of ATF, Ray Fidone, PSN Coordinator, and Mike Behm, former PSN Coordinator, receive the award for PSN from U. S. Attorney Mike Heavican.

The LECC Unit worked to provide additional training on various topics of interest to law enforcement officers, prosecutors, other criminal justice officials and community members during 2004. Those events included two conferences on Native American Issues for victim-witness professionals, designed to enhance their knowledge and skills related to mandatory reporting issues on child sexual and physical abuse. A day-long training program for the community on drug and violent crime enforcement and prevention programs entitled *Summit Against Violence* was co-hosted with the Omaha Police Department. A three-day training session on issues related to Project Safe Neighborhoods was co-hosted with ATF, the International Association of Chiefs of Police, and the National Crime Prevention Council, for over 300 law enforcement officers and prosecutors. The LECC Unit also assisted in providing national training in New Orleans, Kansas City, San Diego and San Antonio as part of the national PSN program. The

training team consisted of members from the USAO, the Omaha Police Department and the University of Nebraska at Omaha.

The U.S. Attorney's Office partners with the Federal Bureau of Investigation to provide victim assistance and service to victims of federal crime from the time of the occurrence of the crime. The system, known as VNS, provides notices to victims reflecting the status of investigations and developments in cases accepted for prosecution. Members of the U.S. Attorney's Office LECC staff also provide direct and personal assistance to victims and other witnesses when needed during the course of the prosecution.

Another collaborative effort of the U.S. Attorney's Office is the Weed and Seed program. Weed and Seed is a community-based, multi-agency approach to law enforcement, crime prevention, and neighborhood restoration. The Weed and Seed strategy brings federal, state, and local law enforcement agencies together with prosecutors, social services providers, representatives of the public and private sectors, business owners, and neighborhood residents to further the common goal of weeding out crime while seeding in social services and economic revitalization. The U.S. Attorney's Office LECC Unit has assisted in the formation of officially recognized and funded Weed and Seed sites in the northeast and southeast areas of Omaha, and a third Weed and Seed site in Thurston County which serves the Winnebago and Omaha Indian Reservations. All of the Weed and Seed sites will benefit from increased federal financial assistance and increased strategic cooperative efforts directed to achieving the goals of the program.

Co-located within the U.S. Attorney's Office's LECC Unit are the Nebraska Initiatives of the Midwest HIDTA. The Midwest HIDTA focuses on decreasing the importation, distribution, manufacture, and demand for illegal drugs within the State and the Midwest Region. Intelligence information on drug activity is compiled and disseminated through the Nebraska Law Enforcement Intelligence System (NELEIS), maintained by the State Patrol. The HIDTA Initiatives, in addition to supporting law enforcement and prosecution, have developed a number of drug abuse prevention programs.

LECC Manager Jeanette continues to serve as a member of the Policy Workgroup of the Nebraska Partners in Prevention, which is responsible for devising the criteria and protocols for the distribution of drug prevention grants to various agencies throughout the State. The U.S. Attorney's Office has also been instrumental in the development of many of Nebraska's drug courts.

In addition to the activities directly conducted by the LECC Unit, the success of many of the programs and initiatives described elsewhere in this report depends in large part on the collaborative efforts of the U.S. Attorney's Office and personnel from other governmental and private entities. For example, the Anti-Terrorism Advisory Council in Nebraska emphasizes the sharing of intelligence information about possible terrorist activity between federal, state, local, and private agencies. The Project Safe Neighborhoods effort in Nebraska is guided by a statewide task force of law enforcement officers, prosecutors and community outreach experts. And the regional drug task forces throughout the State focus on information sharing and cooperative law enforcement approaches to address the problem of illegal drug use.

## **CONCLUSION**

During 2004 the components of the Nebraska U.S. Attorney's Office worked to effectively represent the interests of the United States and the people of Nebraska to increase the effectiveness of law enforcement and other federal programs in the State. Through cooperative efforts with other public and private entities, the U.S. Attorney's Office has sought to improve the quality of life for all Nebraskans. By building on the success of current programs and continuing our cooperative endeavors, we hope to make Nebraska an even better place to live.

## **CONTACT INFORMATION**

For further information about the United States Attorney's Office, please visit our website at [www.usdoj.gov/usao/ne](http://www.usdoj.gov/usao/ne).

[illegible]

36